IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Comp.A.Nos.570 to 572 of 2018
in C.P.No.192 of 1998

V.Subramanian ... Applicant in all applications

vs.

1.The Official Liquidator,
High Court, Madras
As the Liquidator of
M/s.Ujwalla Foundations Ltd.,
(In Liquidation)
No.29, Corporate Bhavan,
II Floor, Rajaji Salai, Chennai 600 001.

2.M/s.Private Eye (P) Ltd.,
Represented by its
Managing Director, P.Janardhanan,
And having its registered Office at
30/9, 80 Feet Road,
Indira Nagar, Bangalore 560 038. ... Respondents in all applications

PRAYER in Comp.A.No.570 of 2018: This Company Application filed under Order 14 Rule 8 of Original Side Rules r/w 9, 11(b) of the Companies (Court) Rules, 1959, pleased to set aside the certificate of sale dated 13.09.2006 issued in favour of the 2nd respondent by way of public auction held on 17.07.2006 in E.P.No.15 of 2001 on the file of the Senior Civil Judge,

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Penukonda, in respect of Survey Nos.353-1C, 353-2B, 365-1, 365-2, 412-2B, Enumulapalli Revenue and Panchayat situate within the R.D of Anantapur, SRD of Bukkapatnam, as illegal, null and void.

PRAYER in Comp.A.No.571 of 2018: This Company Application filed under Order 14 Rule 8 of Original Side Rules r/w 9, 11(b) of the Companies (Court) Rules, 1959, pleased to pass an order of injunction restraining the 2nd respondent herein, either by itself or through its agents / assigns from claiming any rights pursuant to the certificate of sale dated 13.09.2006 in favour of the 2nd respondent granted by way of public auction held on 17.07.2006 in E.P.No.15 of 2001 on the file of the Senior Civil Judge, Penukonda pending disposal of the present company application.

PRAYER in Comp.A.No.572 of 2018: This Company Application filed under Order 14 Rule 8 of Original Side Rules r/w 9, 11(b) of the Companies (Court) Rules, 1959, pleased to pass an order of injunction restraining the 2nd respondent herein, either by itself or through its agents / assigns from assigning, dealing with, disposing of or otherwise creating any encumbrances and / or third party rights in respect of the properties at Survey Nos.353-1C, 353-2B, 365-2, 412-2B, Enumulapalli Revenue and Panchayat, situate within the R.D of Anantapur, SRD of Bukkapatnam pending disposal of the present company application.

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For Applicant : Mr.Arun Karthik Mohan
in all Company Applications

For Respondents : Mr.Bavisetty Sridhar for R1
Mr.Sriram for
M/s.A.S.Kailasam and Associates for R2
in all Company Applications

COMMON ORDER

This application is filed to set aside the certificate of sale dated 13.09.2006 in favour of the second respondent by way of Public Auction held on 17.07.2006 in E.P.No.15 of 2001 on the file of the Senior Civil Judge, Penukonda, in respect of Survey Numbers 353-1C, 353-2B, 365-1, 365-2 and 412-2B, Enumulapalli Revenue and Panchayat situated within the Revenue District of Ananthapur, SRD of Bukkapatnam, as illegal, null and void.

2.I heard the learned counsel for the applicant, the Deputy Official Liquidator and the learned counsel for the second respondent.

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3.The learned counsel for the applicant submitted that the company was ordered to be wound up by an order dated 17.09.2003 of this Court whereas the purported certificate of sale in favour of the second respondent was issued

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on 13.09.2006. He further submitted that the permission of this Court was not obtained either under Section 446 of the Companies Act, 1956 or under Section 537 thereof to proceed with the suit and execution proceedings. Consequently, he submits that the certificate of sale is liable to be declared as void under Section 537.

4.The Deputy Official Liquidator filed a report dated 12th October 2018 wherein it is stated that the Official Liquidator has no knowledge about the decree of the City Civil Court, Chennai on 03.08.1999 and that the second respondent failed to obtain the leave of the Court under Section 446(1) of the Companies Act, 1956 and that, consequently, the execution proceedings and orders obtained in such proceedings are void as per Section 537 of the Companies Act, 1956.

5.The learned counsel for the second respondent submits that the above facts are bone out by the records and that therefore, he is not in a position to controvert the said facts.

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6.In view of the above, the present application is liable to be allowed. Therefore, the sale certificate dated 13.09.2006 issued in favour of the second

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respondent by way of Public Auction held on 17.07.2006 in E.P.No.15 of 2001 on the file of the Senior Civil Judge, Penukonda, in respect of Survey Numbers 353-1C, 353-2B, 365-1, 365-2 and 412-2B Enumulapalli Revenue and Panchayat situated within the Revenue District of Ananthapur, SRD of Bukkapatnam is hereby declared as illegal null and void.

7.Accordingly, the Company Application is disposed of.

15.11.2019

Index : Yes / No
Internet : Yes / No
rna

To

The Sub Registrar,
Bukkapatnam,
Andhra Pradesh – 515144.

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SENTHILKUMAR RAMAMOORTHY,J

rna

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